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09/648,656	08/25/2000	Thomas T. Buzzell	99-722	6372

7590

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Jeffrey L Myers  
Caterpillar Inc  
Intellectual Property Department AB6490  
100 N E Adams Street  
peoria, IL 61629-6490

EXAMINER

GART, MATTHEW S

ART UNIT

PAPER NUMBER

3625

DATE MAILED: 11/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/648,656

Applicant(s)

BUZZELL ET AL.

Examiner

Matthew s Gart

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 29-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 and 33-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 October 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

Claims 1-40 are pending in the instant application. Claims 29-32 were withdrawn from further consideration via Paper No. 7. New claims 36-40 were added via Paper No. 10.

### **Election/Restrictions**

Claims 29-32 were withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No.7.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1, 4, 8, 11, 15, 18, 22, 25 and 34-40 are rejected under 35**

**U.S.C. 102(e) as being anticipated by Allsop U.S. Patent No. 5,970,472.**

Referring to claim 1. Allsop discloses an e-commerce based method for requesting information and purchasing products from a dealer through a manufacturer (Abstract, "A customer using a remote processing system accesses an order processing

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unit by first accessing a manufacturer Web site, which provides a hypertext link to one of the processing units.”), the method comprising:

- Sending a request for detailed dealer information to a manufacturer server system using a client system (column 8, lines 32-49);
- Displaying real-time detailed dealer information on said client system based on said request (column 10, lines 4-15);
- Receiving said real-time detailed dealer information from said manufacturer server system (column 10, lines 4-15); and
- Accessing said real-time detailed dealer information with said manufacturer server system from a remote dealer server system via a middleware application system (Fig. 3).

Referring to claim 4. Allsop further discloses a method wherein said real-time detailed dealer information is selected from the group consisting of dealer-level inventory, pricing, and sales information (column 10, lines 4-15).

Referring to claim 8. Allsop discloses an e-commerce based system for requesting information and purchasing products from a dealer through a manufacturer (abstract), the system comprising:

- A client system (Fig. 3);
- A manufacturer server system in communication with said client system, said manufacturer server system having a middleware application system said manufacturer's server system hosting a manufacturer's web site and a plurality of dealer's web sites (Fig. 3); and

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- A remote dealer server system in communication with said middleware application system to provide real-time detailed dealer information to said manufacturer server system via said middleware application system with said manufacturer server system able to send said real-time detailed dealer information to said client system for displaying (Fig. 3 and column 8, lines 32-49).

Referring to claim 11. Claim 11 is rejected under the same rationale as set forth above in claim 4.

Referring to claim 15. Allsop disclose an e-commerce based method for requesting information and purchasing products from a dealer through a manufacturer, the method comprising:

- Creating an item list using a client system (column 2, lines 53-61);
- Sending said item list to a manufacturer server system, said manufacturer's server system hosting a manufacturer's web site and a plurality of dealer's web sites (column 2, lines 53-61);
- Displaying real-time detailed dealer information on said client system based on said item list (column 8, lines 32-49); and
- Receiving said real-time detailed dealer information from said manufacturer server system; and accessing said real-time detailed dealer information with said manufacturer server system from a remote dealer server system via a middleware application system (column 2, lines 53-61).

Referring to claim 18. Claim 18 is rejected under the same rationale as set forth above in claim 4.

Referring to claim 22. Allsop discloses an e-commerce based system for requesting information and purchasing products from a dealer through a manufacturer, the system comprising:

- A client system for creating an item list (column 2, lines 53-61);
- A manufacturer server system for receiving said item list, said manufacturer's server system hosting a manufacturer's web site and a plurality of dealer's web sites (column 2, lines 53-61); and
- A remote dealer server system for sending real-time detailed dealer information to said manufacturer server system via a middleware application system based on said item list received from said manufacture server system via said middleware application system and said manufacturer server system for sending said real-time detailed dealer information to said client system for displaying (column 8, lines 32-49).

Referring to claim 25. Claim 25 is rejected under the same rationale as set forth above in claim 4.

Referring to claim 34. Claim 34 is rejected under the same rationale as set forth above in claim 1.

Referring to claim 35. Claim 35 is rejected under the same rationale as set forth above in claim 1.

Referring to claim 36. Allsop further discloses a system wherein said client system creates said item list in response to interacting with one of said plurality of dealer web sites located on said manufacturer server system (Fig. 5).

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Referring to claims 37-40. Claims 37-40 are rejected under the same rationale as set forth above in claims 1, 4, 8, 11, 15, 18, 22, 25 and 34-36.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 2-3, 9-10, 16-17, 23-24 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allsop U.S. Patent No. 5,970,472.**

Referring to claims 2-3, 9-10, 16-17, 23-24 and 33. Allsop discloses a method and system according to claims 1, 8, 15, and 22 as indicated supra. Allsop further discloses:

- Sending a purchase request from said remote dealer server system with said detailed dealer information for identifying said request (column 6, line 31 to column 9, line 22).
- Sending said purchase request to said manufacturer server system (column 6, line 31 to column 9, line 22);
- Sending said purchase request with said manufacturer server system to said remote dealer server system via said middleware application system (column 6, line 31 to column 9, line 22);
- Completing said purchasing with said remote dealer server system;

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- Sending a confirmation to said manufacturer server system (column 1, lines 15-35); and
- Sending said confirmation with said manufacturer server system to said client system (column 1, lines 15-35).

Allsop does not expressly disclose the use of a quote number or a confirmation number. Data identifying type, characteristics, condition, etc. is not functionally related to the substrate of the method and system. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *Cf. In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to store any data (purchase number, purchase request, quote number, quote request, etc.) in the fields of the method and system as shown in Allsop. The data form does not functionally relate to the substrate of the method and system and merely labeling the data differently from that in the prior art would have been obvious matter of design choice. See *In re Kuhle*, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).

**Claims 5-7, 12-14, 19-21, and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allsop U.S. Patent No. 5,970,472, in view of “Web Gateway Sites Keep Growing.”**

Referring to claims 5-7, 12-14, 19-21, and 26-28. Allsop discloses a method and system according to claims 1, 8, 15, and 22 as indicated supra. Allsop does not expressly disclose:



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- Displaying consumer personalized data received from said manufacturer server system on said client system;
- Wherein said consumer personalized data information is selected from the group consisting of weather, investments, stock portfolio, news and links; and
- Wherein said news is selected from the group consisting of local, national, international and industrial.

"Web" discloses:

- Displaying consumer personalized data received from said manufacturer server system on said client system (at least paragraph 13);
- Wherein said consumer personalized data information is selected from the group consisting of weather, investments, stock portfolio, news and links (at least paragraph 14); and

Wherein said news is selected from the group consisting of local, national, international and industrial (at least paragraph 13-16).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have modified the system and method of Allsop to have included the limitations of "Web" as discussed above in order to have provided a technique by which manufacturers have greater control over the on-line sales of their products (column 1, lines 57-64).

### ***Response to Arguments***

Applicant's arguments filed November 7, 2003 have been fully considered but they are not persuasive.

The Attorney argues that Allsop does not disclose accessing said real-time detailed dealer information with said manufacturer server system from a remote dealer server system via a middleware application system.

The Examiner notes, the specification of the instant invention defines a middleware application system as a means to connect a Consumer Terminal Application with the specified dealer server system, enabling bi-directional communication during the transaction process.

The Examiner further notes, Allsop discloses a server computer system that is maintained with an Internet connection. A number of order processing units for processing product orders are maintained and operated on the server. The purpose of each of the order processing units is to provide an electronic commerce interface by which a user can, through a particular WLD, purchase products of one particular manufacturer that has authorized the WLD. Each order-processing unit also includes functional modules that enable either the manufacturer or the corresponding WLD to access, at any time, detailed information on all sales to-date and receive standardized reports of such information (column 6, lines 57 to column 7, line 6). The use and definition of the middleware application system in the instant application is functionally equivalent to the use and definition of the server system disclosed in Allsop. Office personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997).

The Attorney argues Allsop does not disclose accessing real-time detailed dealer information.

The Examiner notes, Allsop does disclose (column 10, lines 4-15) a system wherein the manufacturer's computer system can automatically access an inventory database to determine if a purchased product is currently in a particular dealer's inventory. The database can be accessed before the user has selected the dealer, such that the user is not allowed to select any dealer that does not have the product in stock. This access to dealer information must be in real-time or else the motivation of the query (such that the user is not allowed to select any dealer that does not have the product in stock) would be useless.

The Attorney notes, claims 8, 15, and 22 have been amended to recite a "manufacturer's server system hosting a manufacturer's web site and a plurality of dealer's web sites."

The Examiner notes Fig. 5 shows a "manufacturer's server system hosting a manufacturer's web site and a plurality of dealer's web sites."

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

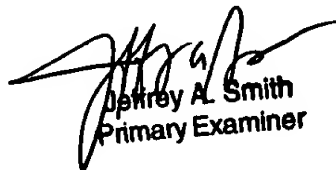
Any inquiry concerning this communication should be directed to Matthew Gart whose telephone number is 703-305-5355. This examiner can normally be reached Monday-Friday, 8:30AM-5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wynn Coggins can be reached on 703-308-1344. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

MSG

June 17, 2003



Jeffrey A. Smith  
Primary Examiner